

Calendar No. 101

104TH CONGRESS
1ST SESSION

S. 395

[Report No. 104-78]

A BILL

To authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and for other purposes.

APRIL 27 (legislative day, APRIL 24), 1995

Reported with amendments and an amendment to the title

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To authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13 (legislative day, JANUARY 30), 1995

Mr. MURKOWSKI (for himself, Mr. STEVENS, Mrs. FEINSTEIN, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

APRIL 27 (legislative day, APRIL 24), 1995

Reported by Mr. MURKOWSKI, with amendments and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

TITLE I**SECTION 101. SHORT TITLE.**

This title may be cited as the “Alaska Power Administration Sale Act”.

SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

(a) The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this Act as “Snettisham”) to the State of Alaska in accordance with the terms of this Act and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the Department of Energy and the Alaska Power Authority.

(b) The Secretary of Energy is authorized and directed to sell the Eklutna Hydroelectric Project (referred to in this Act as “Eklutna”) to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this Act as “Eklutna Purchasers”), in accordance with the terms of this Act and the August 2, 1989, Eklutna Purchase Agreement, as amended, between the Department of Energy and the Eklutna Purchasers.

(c) The heads of other Federal departments and agencies, including the Secretary of the Interior, shall as-

1 sist the Secretary of Energy in implementing the sales au-
 2 thorized and directed by this Act.

3 (d) The Secretary of Energy shall deposit sale pro-
 4 ceeds in the Treasury of the United States to the credit
 5 of miscellaneous receipts.

6 (e) There are authorized to be appropriated such
 7 sums as may be necessary to prepare or acquire Eklutna
 8 and Snettisham assets for sale and conveyance. Such prep-
 9 arations and acquisitions shall provide sufficient title to
 10 ensure the beneficial use, enjoyment, and occupancy to the
 11 purchasers of the asset to be sold.

12 **SEC. 103. EXEMPTION.**

13 (a)(1) After the sales authorized by this Act occur,
 14 Eklutna and Snettisham, including future modifications,
 15 shall continue to be exempt from the requirements of the
 16 Federal Power Act (16 U.S.C. 791a et. seq.).

17 (2) The exemption provided by paragraph (1) does
 18 not affect the Memorandum of Agreement entered into be-
 19 tween the State of Alaska, the Eklutna Purchasers, the
 20 Alaska Energy Authority, and Federal fish and wildlife
 21 agencies regarding the protection, mitigation of, damages
 22 to, and enhancement of fish and wildlife, dated August
 23 7, 1991, which remains in full force and effect.

24 (3) Nothing in this Act or the Federal Power Act pre-
 25 empts the State of Alaska from carrying out the respon-

1 sibilities and authorities of the Memorandum of Agree-
2 ment.

3 ~~(b)(1)~~ The United States District Court for the Dis-
4 trict of Alaska has jurisdiction to review decisions made
5 under the Memorandum of Agreement and to enforce the
6 provisions of the Memorandum of Agreement, including
7 the remedy of specific performance.

8 ~~(2)~~ An action seeking review of a Fish and Wildlife
9 Program (“Program”) of the Governor of Alaska under
10 the Memorandum of Agreement or challenging actions of
11 any of the parties to the Memorandum of Agreement prior
12 to the adoption of the Program shall be brought not later
13 than ninety days after the date of which the Program is
14 adopted by the Governor of Alaska, or be barred.

15 ~~(3)~~ An action seeking review of implementation of the
16 Program shall be brought not later than ninety days after
17 the challenged act implementing the program, or be
18 barred.

19 ~~(c)~~ With respect to Eklutna lands described in Ex-
20 hibit A of the Eklutna Purchase Agreement:

21 ~~(1)~~ The Secretary of the Interior shall issue
22 rights-of-way to the Alaska Power Administration
23 for subsequent reassignment to the Eklutna Pur-
24 chasers—

25 ~~(A)~~ at no cost to the Eklutna Purchasers;

1 (B) to remain effective for a period equal
2 to the life of Eklutna as extended by improve-
3 ments, repairs, renewals, or replacements; and

4 (C) sufficient for the operation, mainte-
5 nance, repair, and replacement of, and access
6 to, Eklutna facilities located on military lands
7 and lands managed by the Bureau of Land
8 Management, including land selected by the
9 State of Alaska.

10 (2) If the Eklutna Purchasers subsequently sell
11 or transfer Eklutna to private ownership, the Bu-
12 reau of Land Management may assess reasonable
13 and customary fees for continued uses of the rights-
14 of-way on lands managed by the Bureau of Land
15 Management and military lands in accordance with
16 current law.

17 (3) Fee title to lands at Anchorage Substation
18 shall be transferred to Eklutna Purchasers at no ad-
19 ditional cost if the Secretary of the Interior deter-
20 mines that pending claims to, and selection of, those
21 lands are invalid or relinquished.

22 (4) With respect only to approximately eight
23 hundred and fifty-three acres of Eklutna lands iden-
24 tified in paragraphs 1. a., b., and c. of exhibit A of
25 the Eklutna Purchase Agreement, the State of Alas-

1 ka may select, and the Secretary of the Interior shall
2 convey, to the State, improved lands under the selec-
3 tion entitlements in section 6(a) of the Act of July
4 7, 1958 (Public Law 85-508), and the North An-
5 chorage Land Agreement of January 31, 1983. The
6 conveyance is subject to the rights-of-way provided
7 to the Eklutna Purchasers under paragraph (1).

8 (d) With respect to the approximately two thousand
9 six hundred and seventy-one acres of Snettisham lands
10 identified in paragraphs 1. a. and b. of Exhibit A of the
11 Snettisham Purchase Agreement, the State of Alaska may
12 select, and the Secretary of the Interior shall convey to
13 the State, improved lands under the selection entitlement
14 in section 6(a) of the Act of July 7, 1958 (Public Law
15 85-508).

16 (e) Not later than one year after both of the sales
17 authorized in section 2 have occurred, as measured by the
18 transaction dates stipulated in the purchase agreements,
19 the Secretary of Energy shall—

20 (1) complete the business of, and close out, the
21 Alaska Power Administration;

22 (2) prepare and submit to Congress a report
23 documenting the sales; and

1 ~~(3) return unused balances of funds appro-~~
 2 ~~riated for the Alaska Power Administration to the~~
 3 ~~Treasury of the United States.~~

4 ~~(f) The Act of July 31, 1950 (64 Stat. 382) is re-~~
 5 ~~pealed effective on the date, as determined by the Sec-~~
 6 ~~retary of Energy, when all Eklutna assets have been con-~~
 7 ~~veyed to the Eklutna Purchasers.~~

8 ~~(g) Section 204 of the Flood Control Act of 1962~~
 9 ~~(Public Law 87-874; 76 Stat. 1193) is repealed effective~~
 10 ~~on the date, as determined by the Secretary of Energy,~~
 11 ~~when all Snettisham assets have been conveyed to the~~
 12 ~~State of Alaska.~~

13 ~~(h) As of the later of the two dates determined in~~
 14 ~~subsection (f) and (g), section 302(a) of the Department~~
 15 ~~of Energy Organization Act (42 U.S.C. 7152 (a)) is~~
 16 ~~amended—~~

17 ~~(1) in paragraph (1)—~~

18 ~~(A) by striking out subparagraph (C); and~~

19 ~~(B) by redesignating subparagraphs (D),~~

20 ~~(E) and (F) as subparagraphs (C), (D), and~~

21 ~~(E) respectively;~~

22 ~~(2) in paragraph (2), by striking out “the Bon-~~
 23 ~~neville Power Administration, and the Alaska Power~~
 24 ~~Administration” and inserting in lieu thereof “and~~
 25 ~~the Bonneville Power Administration”.~~

(j) The sales of Eklutna and Snettisham under this Act are not considered a disposal of Federal surplus property under the following provisions of section 203 of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 484) and section 13 of the Surplus Property Act of 1944 (50 U.S.C. app. 1622).

11 ***SECTION 101. SHORT TITLE.***

12 *This title may be cited as the “Alaska Power Adminis-*
13 *tration Asset Sale and Termination Act”.*

(a) *The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this Act as “Snettisham”) to the State of Alaska in accordance with the terms of this Act and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Alaska Power Authority and the Authority successors.*

24 (b) The Secretary of Energy is authorized and directed
25 to sell the Eklutna Hydroelectric Project (referred to in this

1 Act as “Eklutna”) to the Municipality of Anchorage doing
 2 business as Municipal Light and Power, the Chugach Elec-
 3 tric Association, Inc., and the Matanuska Electric Associa-
 4 tion, Inc. (referred to in this Act as “Eklutna Purchasers”),
 5 in accordance with the terms of this Act and the August
 6 2, 1989, Eklutna Purchase Agreement, as amended, between
 7 the Alaska Power Administration of the United States De-
 8 partment of Energy and the Eklutna Purchasers.

9 (c) The heads of other Federal departments and agen-
 10 cies, including the Secretary of the Interior, shall assist the
 11 Secretary of Energy in implementing the sales authorized
 12 and directed by this Act.

13 (d) Proceeds from the sales required by this title shall
 14 be deposited in the Treasury of the United States to the
 15 credit of miscellaneous receipts.

16 (e) There are authorized to be appropriated such sums
 17 as may be necessary to prepare, survey and acquire
 18 Eklutna and Snettisham assets for sale and conveyance.
 19 Such preparations and acquisitions shall provide sufficient
 20 title to ensure the beneficial use, enjoyment, and occupancy
 21 by the purchaser.

22 **SEC. 103. EXEMPTION AND OTHER PROVISIONS.**

23 (a)(1) After the sales authorized by this Act occur,
 24 Eklutna and Snettisham, including future modifications,

1 *shall continue to be exempt from the requirements of the*
2 *Federal Power Act (16 U.S.C. 791a et seq.) as amended.*

3 (2) *The exemption provided by paragraph (1) does not*
4 *affect the Memorandum of Agreement entered into among*
5 *the State of Alaska, the Eklutna Purchasers, the Alaska En-*
6 *ergy Authority, and Federal fish and wildlife agencies re-*
7 *garding the protection, mitigation of, damages to, and en-*
8 *hancement of fish and wildlife, dated August 7, 1991, which*
9 *remains in full force and effect.*

10 (3) *Nothing in this title or the Federal Power Act pre-*
11 *empts the State of Alaska from carrying out the responsibil-*
12 *ities and authorities of the Memorandum of Agreement.*

13 (b)(1) *The United States District Court for the District*
14 *of Alaska shall have jurisdiction to review decisions made*
15 *under the Memorandum of Agreement and to enforce the*
16 *provisions of the Memorandum of Agreement, including the*
17 *remedy of specific performance.*

18 (2) *An action seeking review of a Fish and Wildlife*
19 *Program (“Program”) of the Governor of Alaska under the*
20 *Memorandum of Agreement or challenging actions of any*
21 *of the parties to the Memorandum of Agreement prior to*
22 *the adoption of the Program shall be brought not later than*
23 *ninety days after the date of which the Program is adopted*
24 *by the Governor of Alaska, or be barred.*

1 (3) *An action seeking review of implementation of the*
2 *Program shall be brought not later than ninety days after*
3 *the challenged act implementing the Program, or be barred.*

4 (c) *With respect to Eklutna lands described in Exhibit*
5 *A of the Eklutna Purchase Agreement:*

6 (1) *The Secretary of the Interior shall issue*
7 *rights-of-way to the Alaska Power Administration for*
8 *subsequent reassignment to the Eklutna Purchasers—*

9 (A) *at no cost to the Eklutna Purchasers;*

10 (B) *to remain effective for a period equal to*
11 *the life of Eklutna as extended by improvements,*
12 *repairs, renewals, or replacements; and*

13 (C) *sufficient for the operation of, mainte-*
14 *nance of, repair to, and replacement of, and ac-*
15 *cess to, Eklutna facilities located on military*
16 *lands and lands managed by the Bureau of Land*
17 *Management, including lands selected by the*
18 *State of Alaska.*

19 (2) *If the Eklutna Purchasers subsequently sell*
20 *or transfer Eklutna to private ownership, the Bureau*
21 *of Land Management may assess reasonable and cus-*
22 *tomary fees for continued use of the rights-of-way on*
23 *lands managed by the Bureau of Land Management*
24 *and military lands in accordance with existing law.*

1 (3) *Fee title to lands at Anchorage Substation*
2 *shall be transferred to Eklutna Purchasers at no addi-*
3 *tional cost if the Secretary of the Interior determines*
4 *that pending claims to, and selections of, those lands*
5 *are invalid or relinquished.*

6 (4) *With respect to the Eklutna lands identified*
7 *in paragraph 1 of Exhibit A of the Eklutna Purchase*
8 *Agreement, the State of Alaska may select, and the*
9 *Secretary of the Interior shall convey to the State, im-*
10 *proved lands under the selection entitlements in sec-*
11 *tion 6 of the Act of July 7, 1958 (commonly referred*
12 *to as the Alaska Statehood Act, Public Law 85-508,*
13 *72 Stat. 339, as amended), and the North Anchorage*
14 *Land Agreement dated January 31, 1983. This con-*
15 *veyance shall be subject to the rights-of-way provided*
16 *to the Eklutna Purchasers under paragraph (1).*

17 (d) *With respect to the Snettisham lands identified in*
18 *paragraph 1 of Exhibit A of the Snettisham Purchase*
19 *Agreement and Public Land Order No. 5108, the State of*
20 *Alaska may select, and the Secretary of the Interior shall*
21 *convey to the State of Alaska, improved lands under the*
22 *selection entitlements in section 6 of the Act of July 7, 1958*
23 *(commonly referred to as the Alaska Statehood Act, Public*
24 *Law 85-508, 72 Stat. 339, as amended).*

1 (e) Not later than one year after both of the sales au-
2 thorized in section 102 have occurred, as measured by the
3 Transaction Dates stipulated in the Purchase Agreements,
4 the Secretary of Energy shall—

5 (1) complete the business of, and close out, the
6 Alaska Power Administration;

7 (2) submit to Congress a report documenting the
8 sales; and

9 (3) return unobligated balances of funds appro-
10 priated for the Alaska Power Administration to the
11 Treasury of the United States.

12 (f) The Act of July 31, 1950 (64 Stat. 382) is repealed
13 effective on the date, as determined by the Secretary of En-
14 ergy, that all Eklutna assets have been conveyed to the
15 Eklutna Purchasers.

16 (g) Section 204 of the Flood Control Act of 1962 (76
17 Stat. 1193) is repealed effective on the date, as determined
18 by the Secretary of Energy, that all Snettisham assets have
19 been conveyed to the State of Alaska.

20 (h) As of the later of the two dates determined in sub-
21 section (f) and (g), section 302(a) of the Department of En-
22 ergy Organization Act (42 U.S.C. 7152 (a)) is amended—

23 (1) in paragraph (1)—

24 (A) by striking subparagraph (C); and

16 **SEC. 201. SHORT TITLE**

19 SEC. 202. TAPS ACT AMENDMENTS.

24 “(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

1 “(1) Subject to paragraphs (2) and (3), not-
2 withstanding any other provision of law (including
3 any regulation), any oil transported by pipeline over
4 a right-of-way granted pursuant to this section may
5 be exported.

6 “(2) Except in the case of oil exported to a
7 country pursuant to a bilateral international oil sup-
8 ply agreement entered into by the United States
9 with the country before June 25, 1979, or to a coun-
10 try pursuant to the International Emergency Oil
11 Sharing Plan of the International Energy Agency,
12 the oil shall be transported by a vessel documented
13 under the laws of the United States and owned by
14 a citizen of the United States (as determined in ac-
15 cordance with section 2 of the Shipping Act, 1916
16 (46 U.S.C. App. 802)).

17 “(3) Nothing in this subsection shall restrict
18 the authority of the President under the Constitu-
19 tion, the International Emergency Economic Powers
20 Act (50 U.S.C. 1701 et seq.), or the National Emer-
21 gencies Act (50 U.S.C. 1601 et seq.) to prohibit ex-
22 portation of the oil.”.

23 **SEC. 203. SECURITY OF SUPPLY.**

24 Section 410 of the Trans-Alaska Pipeline Authoriza-
25 tion Act (87 Stat. 594) is amended to read as follows:

1 “The Congress reaffirms that the crude oil on the North
2 Slope of Alaska is an important part of the Nation’s oil
3 resources, and that the benefits of such crude oil should
4 be equitably shared, directly or indirectly, by all regions
5 of the country. The President shall use any authority he
6 may have to ensure an equitable allocation of available
7 North Slope and other crude oil resources and petroleum
8 products among all regions and all of the several States.”.

9 **SEC. 204. ANNUAL REPORT.**

10 Section 103(f) of the Energy Policy and Conservation
11 Act (42 U.S.C. 6212(f)) is amended by adding at the end
12 thereof the following: “In the first quarter report for each
13 new calendar year, the President shall indicate whether
14 independent refiners in Petroleum Administration District
15 5 have been unable to secure adequate supplies of crude
16 oil as a result of exports of Alaskan North Slope crude
17 oil in the prior calendar year and shall make such rec-
18 ommendations to the Congress as may be appropriate.”.

19 **SEC. 205. GAO REPORT.**

20 The Comptroller General of the United States shall
21 conduct a review of energy production in California and
22 Alaska and the effects of Alaskan North Slope crude oil
23 exports, if any, on consumers, independent refiners, and
24 shipbuilding and ship repair yards on the West Coast. The
25 Comptroller General shall commence this review four years

1 after the date of enactment of this Act and, within one
2 year after commencing the review, shall provide a report
3 to the Committee on Energy and Natural Resources in
4 the Senate and the Committee on Resources in the House
5 of Representatives. The report shall contain a statement
6 of the principal findings of the review and such rec-
7 ommendations for consideration by the Congress as may
8 be appropriate.

9 **SEC. 206. EFFECTIVE DATE.**

10 This ~~Act~~ *title* and the amendments made by it shall
11 take effect on the date of enactment.

Amend the title so as to read: “To authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes.”.